

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DARREL LEE HENRY,

Defendant.

8:11CR372

ORDER

This matter is before the court after a hearing on the petition for offender under supervision for failure to follow rules of the Residential Reentry Center (“RRC”), Filing No. 70. On the court’s own motion, the court finds a psychiatric and psychological evaluation of the defendant is necessary. On April 19, 2012, the defendant entered a plea of guilty to a charge of failure to register as a sex offender. Filing No. 27, Minute Entry. He was sentenced to the custody of the Bureau of Prisons for a term of 15 months and 10 years supervised release with special conditions. Filing No. 34, Judgment. On April 22, 2016, he was sentenced to time served for violation of conditions of release for failure to notify probation officer of change in residence and failure to comply with Sexual Offender Registration and Notification Act. His term of supervised release was continued to January 31, 2022. See Filing No. 68, Judgment. On November 27, 2017, his conditions of release were modified to include a public law placement in a RRC for a period of up to 180 days, Filing No. 69, Report and Order.

There is substantial information in the record that indicates the defendant may presently be suffering from a mental disease or defect. Filing No. 73, Adjustment Report

(Sealed). The court finds that an inpatient evaluation is necessary. Neither the defendant nor the government has any objection to such an evaluation.

The court finds the defendant has shown that he “may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care and treatment in a suitable facility.” [18 U.S.C. § 4244\(a\)](#). The court also finds that a psychiatric and psychological evaluation is warranted to determine the defendant’s current mental status and to enable the court to determine an appropriate sentence. See [18 U.S.C. § 3552](#) (b) & (c). Under [18 U.S.C. § 4244\(b\)](#), if a report “includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best accord the defendant the kind of treatment he does need.” [18 U.S.C. § 4244\(b\)](#).

Further, the court finds that there is a compelling reason for the evaluation to be done by the Bureau of Prisons and there are no adequate professional resources available in the local community to perform the evaluation. [18 U.S.C. § 3552\(b\)](#). The court recommends that the Bureau of Prison’s Medical Center for Federal Prisoners in Springfield, Missouri, perform the evaluation. Accordingly,

IT IS ORDERED:

1. The defendant is remanded to the custody of the United States Bureau of Prisons for a full presentence psychiatric and psychological evaluation.
2. The report shall include the information required pursuant to [18 U.S.C. § 4247\(c\)](#) and 4244(b).

3. The report shall be completed on or before October 23, 2018.
4. The U.S. Probation Office shall forward to the Bureau of Prisons facility in which the defendant is evaluated a copy of all medical records relating to the defendant including those provided by defense counsel.
5. The dispositional hearing on the current Petition for Offender is continued to October 25, 2018, at 3:00 p.m., Courtroom No. 3, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska.

Dated this 24th day of August, 2018.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge